

Kline Mechanical Contracting, Inc., and/or MEC, Inc., and/or Northway Development, Inc., a single employer and International Brotherhood of Electrical Workers, Local No. 5, AFL-CIO.
Case 6-CA-23677

January 17, 1991

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND OVIATT

Upon a charge filed by the Union in Case 6-CA-23677 on June 7, 1991,¹ and amended on June 19, the General Counsel of the National Labor Relations Board issued a complaint on June 26, against Kline Mechanical Contracting, Inc., and/or MEC, Inc., and/or Northway Development, Inc., the Respondents, alleging that the Respondents are a single employer and have violated Section 8(a)(1) and (3) of the National Labor Relations Act.²

On July 22, Respondent MEC, Inc. (MEC) filed an answer denying the substantive allegations of the complaint and the allegations of single-employer status. On September 23, the General Counsel filed a Motion for Summary Judgment against Kline Mechanical Contracting, Inc. (Kline) and Northway Development, Inc. (Northway), alleging that Kline and Northway failed to answer the complaint. On October 3, Respondent Northway filed a motion to dismiss the complaint against it on the grounds that Northway is not an employer within the meaning of the Act. On October 8, Respondent MEC filed a response to the General Counsel's Motion for Summary Judgment and a motion to dismiss the complaint allegations that Northway and Kline are employers engaged in commerce within

the meaning of the Act. On November 4, the General Counsel filed a reply brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

On the entire record in this case, the Board makes the following

Ruling on Motion for Summary Judgment

In his Motion for Summary Judgment, the General Counsel contends that Kline and Northway have failed to file an answer to the complaint, that, under Section 102.20 of the Board's Rules and Regulations, the Board should find the allegations of the complaint to be true, and that the Board should issue an order based on those findings.

We find that summary judgment is not proper under the circumstances of this case. The General Counsel's complaint alleges that the Respondents constitute a single employer. Assuming that the allegations in the complaint are true and the Respondents constitute a single employer, the answer filed by MEC suffices to preclude entry of summary judgment against Kline and Northway. *Caribe Cleaning Services*, 304 NLRB 932 fn. 3 (1991). Accordingly, we deny the General Counsel's Motion for Summary Judgment.³

ORDER

It is ordered that the General Counsel's Motion for Summary Judgment is denied.

IT IS FURTHER ORDERED that the Respondents' motions to dismiss are denied.

IT IS FURTHER ORDERED that this proceeding is remanded to the Regional Director for Region 6 for further appropriate action.

¹ All subsequent dates refer to 1991 unless specified otherwise.

² On June 27, the Acting Regional Director issued an order consolidating the instant case with Case 6-RC-10551 for purposes of hearing, ruling, and decision by an administrative law judge.

³ We also deny the motions to dismiss the complaint allegations against Northway and Kline. Their status as an "employer" and their relationship to each other and to MEC are issues to be determined during the hearing of the matter.